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042005

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APR 25 2005

In re Application of: :  
Herbert Schumacher :  
Serial No.: 10/018,979 :  
Filed: December 18, 2001 :  
For: AUTOMOTIVE EXHAUST SILENCER :  
SYSTEM WITH VARIABLE DAMPING :  
CHARACTERISTICS :

DECISION ON PETITION TO  
WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on the petition filed February 8, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

A non-final Office action was mailed June 17, 2004, setting a three-month shortened statutory period for filing a reply. In the apparent absence of a response, a Notice of Abandonment was mailed on January 26, 2005.

Petitioner asserts that a reply was timely filed. In support of the assertion that a reply was timely filed, petitioner submitted the following papers as evidence of timely submission: 1) a copy of a response which bears on of the last page and after the signature a Certificate of Mailing under 37 C.F.R. § 1.8(a) dated December 17, 2004, 2) a copy of an authorization to charge a credit card, 3) a statement in support of the petition under 37 C.F.R. § 1.8(b) signed by petitioner attesting to his personal knowledge that the reply was submitted to the PTO on December 17, 2004, and 4) a statement that a postcard receipt was not returned to petitioner.

The file record does not include the originally submitted papers.

The petition satisfies the conditions for accepting a reply filed via the certificate of mailing procedure under 37 C.F.R. § 1.8(a) but not received by the USPTO. Accordingly, the petition is granted.

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The Notice of Abandonment mailed January 26, 2005 is hereby vacated and the holding of abandonment withdrawn.

The copy of the reply filed with the petition is hereby accepted since the Office has apparently lost the originally filed reply.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

An Office action will be issued in due course.



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Richard K. Seidel, Group Director  
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